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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,975	07/15/2004	Jean-Marie Laborbe	7097/US/PCT	3409
29157 7590 01/15/2008 BELL, BOYD & LLOYD LLP P.O. Box 1135 CHICAGO, IL 60690			EXAMINER THAKUR, VIREN A	
			ART UNIT 1794	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

Office Action Summary	Application No.		Applicant(s)	
	10/501,975		LABORBE ET AL.	
	Examiner		Art Unit	
	Viren Thakur		1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-37 is/are pending in the application.
- 4a) Of the above claim(s) 25-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/22/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 10-24 in the reply filed on October 30, 2007 is acknowledged.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

3. Regarding instant claim 24, it is noted that the claims 10-24, are directed to a food composition and not a method using the food composition. As such, instant claim 24 is not a positive product claim and does not further limit the product but rather recites a step applied to the product.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 15 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 15, recites the limitation "a blood source." On page 5, lines 9-14, applicants state that the protein can be blood or any other source of proteins can be used. However, using blood is not the same as using a blood source.

Claim 21 recites the limitation "a mixture of a meat, a cereal, a plant texturing protein, an animal texturing protein..." The specification provides support for using a plant texturing protein, on page 7, line 1. The only other disclosure of using animal texturing protein is in example 1, lines 23-24 and example 2, lines 24-25. Both examples indicate that either a plant or an animal texturing protein can be used but not both. In light of the rejection under 112, second paragraph below, it is noted that applicants' do not have support for using a mixture of a plant texturing protein and an animal texturing protein.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 10-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Instant claim 11 recites the limitation "the water content." There is insufficient antecedent basis for this limitation in the claim. Instant claim 10 does not recite any water content.

Instant claims 11 and 17 recite the limitation "'is similar to that of the product coated." The term "similar" is a relative term which renders the claim indefinite. The term "similar" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Instant claim 15 recites the limitation "a blood source." It is unclear as to what is considered a blood source. From the specification it appears that applicants' intent is to use any source for proteins and not blood.

In instant claim 18, for instance, it is unclear as to whether the product coated consists of "a mixture of meat", "a meat by-product", "a fish", etc, and a combination thereof, or whether the product coated consists of a mixture of "a meat", "meat by-product", etc. If the first case is true, then it is unclear as to how one can have a mixture of a meat, as opposed to a mixture of meats. The same reasoning is applied to instant claims 21 and 22 with regard to the limitation "a mixture of."

Instant claims 18, 21 and 22 recite the limitation "a mixture of" and then recite a list of components and "a combination thereof." In instant claim 22, for instance, it is

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unclear as to whether the coating is a mixture of the listed components or a combination thereof, or whether the coating is a mixture of all the listed components. The same reasoning is applied to instant claims 18 and 21. The limitation "and a combination thereof" appears to be redundant, since the mixture is a combination thereof.

Instant claims 16, 21 and 22 recite the limitation "comprises... and a combination thereof." The recited format does not comply with accepted U.S. Patent practice with regard to the recitation of Markush grouping of claim elements. Phrases using "comprising" should recite elements in the alternative (i.e. "comprising A, B, C or D"), whereas closed sets ("consisting of") should recite elements as "selected from the group consisting of A, B, C and D."

Instant claim 21 further recites the limitation "plant texturing protein or animal texturing protein." It is unclear as to whether applicants' intent is to recite a texturing protein derived from a plant and an animal or whether the component is merely a protein used to texturize a plant or animal. In the examples in the specification, the either plant or animal texturing proteins are added and not both.

Instant claims 15 and 22 recite the limitation "plasma." It is unclear as to what type of plasma applicant is referring to. To the skilled artisan, there are many types of plasma and as such the claim requires clarification as to what is meant by plasma.

Instant claim 24 recites the limitation "said cooking." There is insufficient antecedent basis for this limitation in the claim. Independent claim 10 recites the limitation "after cooking." Therefore the product being cooked is not a positive limitation in the product claim and as such, the cooking of claim 24 lacks antecedent basis.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 10-17, 19 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Prasad et al. (WO 0065937).**

Regarding instant claim 10, Prasad et al. disclose a food composition such as fish and meat, which has a coating comprising a browning agent, which is considered a colorant and a protein such as egg white powder, soy or whey protein (Abstract and Page 3, lines 13-20 and Page 3, line 26 to Page 4, line 2).

Regarding instant claim 11 and in light of the rejection under 112, second paragraph, above, it is noted that the water content of the coating is similar to that of the product coated, since the coating can be an oil in water or water in oil emulsion (Page 4, lines 3-6).

Regarding instant claim 12, Prasad et al. disclose the browning agent (i.e. colorant) present at 15 percent (Page 5, lines 17-20), which falls within the claimed range of 5 to 20 percent. Most preferably Prasad et al. disclose using between 3 to 5 percent, which is also within the range of about 5 to about 20 percent.

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Regarding instant claim 13, Prasad et al. disclose using caramel color (Page 17, Table 2). It is noted caramel color is obtained by the heat treatment, or total caramelization of sugars such as dextrose and sugars, and as such is interpreted as a caramelized sugar colorant.

Regarding instant claim 14, Prasad et al. disclose using proteins in the coating as part of the texturing agent. Prasad et al. disclose using preferably about 32 to 38 percent of the texture improving agent (Page 5, lines 25-28). The proteins included in this component are egg white, whey protein and soy protein. On page 10, Prasad et al. disclose the maximum preferable ranges for each of these as 18 percent, 12 percent and 15 percent, respectively. Therefore the total protein content in the coating is 45 percent. Since Prasad et al. use maximum preferable amount of the texture improving agent of 38 percent, the about of total protein in the coating is 45 percent of 38, which is approximately 18 percent. An additional protein component, an enzyme modified dairy ingredient such as hydrolyzed wheat gluten, is also included in the browning agent (Page 7, line 29) present at most preferably between 60 and 70 percent of the browning agent composition. The browning agent is included in the coating at "most preferable" between 3 and 5 percent (Page 5, line 19). Therefore the maximum preferable amount of hydrolyzed wheat gluten in the browning agent is 5×70 percent, which is 3.5 percent. The total amount of protein included in the coating is thus 18 percent + 3.5 percent = 21.5 percent. This is considered to be about 20 percent.

Regarding instant claim 15, Prasad et al. disclose that the coating may comprise a fourth component such as a texture improvement agent (Page 3, lines 26-30). If the

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texture improvement agent is present, it is present at preferably 32-38 percent (Page 5, 25-28). When the texture improving agent is not present, the hydrolyzed wheat gluten is the only protein present in the coating.

Regarding instant claim 16, Prasad et al. disclose adding water to the coating (Page 4, lines 3-6).

Regarding instant claim 17, in light of the rejection under 112, second paragraph, above, the viscosity of the coating is similar to that of the product coated.

Regarding instant claim 19, since the food composition is a meat, which has been well known to be eaten by pets, said food composition of Prasad et al. is also a pet food.

Regarding instant claim 23, it is noted that the claims are directed to a product and not a method of cooking. Additionally, by reciting "after cooking" the claim does not positively recite cooking but merely indicates that at some point the combination of the food product and coating are cooked and when this happens a particular result is achieved. In any case, Prasad et al. disclose the claimed food composition and coating and further cook the food and coating (see claim 24 below). Applicant and Prasad et al. are using conventional cooking techniques. Therefore the coating and composition of Prasad et al. would intrinsically have achieved the same result as that of the claimed invention.

Regarding instant claim 24, it is noted that Prasad et al. teach coating a meat product with a coating composition and then cooking said food composition with coating in a microwave or convection oven (Page 4, lines 12-16 and Page 5, lines 3-7).

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10. Claims 10-11, 16-17 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Dupont-Delhovren (*Dupont*) (UP 5567466). Palmer (US 3873736) is cited as evidence, as discussed below.

Regarding instant claim 10, Dupont discloses a food product composition having a coating comprising a colorant, such as a dye and having protein, such as meat (Column 2, line 29-32).

Regarding instant claim 11 and in light of the rejection under 112, second paragraph, above, Dupont disclose wherein the coating comprises water.

Regarding instant claim 16, Dupont discloses wherein the coating comprises gelling agents (i.e. thickeners) and aromas (i.e. additives) (Column 2, lines 29-32).

Regarding instant claim 17, and in light of the rejection under 112, second paragraph, above, the viscosity of the coating is similar to that of the food product emulsion of Dupont.

Regarding instant claims 19-20, Dupont disclose a pet food (See Abstract), wherein the food composition is an emulsion (Column 2, line 66 to Column 3, line 35).

Regarding instant claim 21, Dupont discloses wherein the emulsion comprises a mixture of a meat, a cereal, water (Column 1, lines 28-32), a colorant, vitamins salt (which is also a flavoring), vegetable protein extract (which is a plant texturing protein) (Column 2, lines 35-41) and pig or beef plasma (which is an animal texturing protein) (Column 2, lines 46-48). Additionally, meat components such as liver are also known

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to provide flavoring. Palmer is cited as further evidence that animal and vegetable proteins provide texture to food products (Column 2, lines 37-40).

11. Claims 10-11, 17, 19 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer (US 3808340).

Regarding instant claim 10, Palmer discloses a food product having a coating, comprising a colorant (Column 5, lines 52-55) and a protein, such as liver and veal (Column 5, lines 40-41).

Regarding instant claim 11 and in light of the rejection under 112, second paragraph, above, the coating of Palmer has a water content similar to that of the product coated. Regarding instant claim 16, the coating further comprises water (Column 5, lines 61-62).

Regarding instant claim 17 and in light of the rejection above under 112, second paragraph, the viscosity of the coating of Palmer is similar to that of the food product.

Regarding instant claim 19, the food product of Palmer is a pet food (column 1, lines 31-33).

Regarding instant claim 23, it is noted that the claims are directed to a product and not a method of cooking. Additionally, by reciting "after cooking" the claim does not positively recite cooking but merely indicates that at some point the combination of the food product and coating are cooked and when this happens a particular result is achieved. In any case, Palmer discloses cooking the coated food product so as to resemble the color, appearance and smell of pieces of roasted meat (Column 6, lines 4-

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12). It is noted that the food and composition of Palmer anticipate the claimed coating and food product and also cook said coated food product. Both Palmer and applicant use conventional cooking techniques. Therefore after cooking, the product of Palmer would intrinsically possess the instantly claimed properties.

Regarding instant claim 24, Palmer discloses cooking using a hit air convection system (Column 6, lines 4-12).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dupont-Delhovren (*Dupont*) (UP 5567466) in view of Martin et al. (US 4781939).

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Dupont is taken as cited above. Regarding claim 18, Dupont teaches the emulsion comprising a mixture of cereal, water and meat and meat by-products (Column 1, lines 28-32), wherein the meat component further comprises meat from chicken, fish (Column 1, lines 57 and 59-61) and meat and by-products from pig (Column 2, lines 46-48). Dupont is silent in teaching using a pork.

Martin et al. is relied on to teach meat products such as sausage and frankfurters (Column 1, line 21) which are made using a combination of pork, fish, poultry in combination with the by-products of each for the purpose of making meat emulsion chunks for both human and animal consumption (Column 3, lines 10-15 and lines 18-49). Martin et al. further teach the addition of the types of meat further depends on the desired flavor of the product (Column 3, line 28). Martin et al. further teach using a combination of meat and meat by-products is an emulsion (Column 2, line 20) and is used for pet foods (Column 3, lines 10-15 and line 44). Thus the prior art is similar in that they teach forming emulsions used for pet foods that combine a variety of meat and meat by-products.

Therefore to further include pork would have been obvious to one having ordinary skill in the art, since the prior art taught that it has been conventional to combine the by-products for the purpose of achieving a desired taste.

15. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prasad et al. (WO 0065937) in view of Martin et al. (US 4781939) and Freck et al. (US 3900573).

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Prasad et al. are taken as cited above. Regarding instant claim 18, Prasad et al. teach using a combination of meat comprising pork, fish, poultry, beef and lamb (Page 4, lines 20-28). However, Prasad et al. are silent in teaching wherein the combination meat product further comprises water, a cereal and by-products of the meats.

Martin et al. teaches as applied above. Therefore to further include by-products of the meat would have been obvious to one having ordinary skill in the art, since the prior art taught that it has been conventional to combine the by-products for the purpose of achieving a desired taste.

Claim 18 further differs from modified Prasad et al. in reciting wherein the food product consists of a cereal and water.

Similar to Martin et al., Freck et al. teach simulated meat products such as hamburger (Column 3, lines 67 to Column 4, line 4), which also includes a combination of meat such as poultry, pork, fish and beef (Column 2, lines 50-65). But also uses cereal (See Table on Column 2) and water to aid in binding the ingredients together to form the simulated meat products (Column 1, lines 50-63). As a result the combination meat product has a good consistency. Thus, Freck et al. teaches the ordinarily skilled artisan that a food product that combines multiple meat components would require water and a binder such as cereal in order to hold form and produce a "simulated meat." It is noted that Martin also teach using binders for holding the combination meat product together (Column 3, lines 53-66).

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Based on this teaching it would have been obvious to one having ordinary skill in the art to use water and cereal in modified Prasad et al. for the purpose of ensuring the meat products are sufficiently bound together.

16. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (US 3808340) in view of Corbett et al. (US 4508741), Dictionary of Food Science and Technology, Francis (The Encyclopedia of Food Science and Technology), Ziegler (US 3073700), Hood (US 4089983), Durst (US 3434843), Igoe (The Dictionary of Food Ingredients), Stoloff (US 2567085) and Palmer (US 3873736).

Regarding instant claim 22, Palmer is taken as cited above. Palmer '340 teaches wherein the coating comprises flour such as bone flour (Column 7, line 43) and also comprises wholemeal wheat flour (Column 7, line 41), which is a starch and also comprises gluten, as evidenced by Dictionary of Food Science and Technology. Wholemeal wheat flour contains all the components of the wheat grain. The Dictionary of Food Science and Technology teaches that wheat grain comprises gluten. Palmer further teaches wherein the coating comprises salt (Column 7, line 44). Palmer further teaches that the coating material can comprise colorants (Column 3, line 40) and sugar (Column 3, line 17).

In the example on column 7, Palmer is silent in the particular colorants as recited in instant claim 22: caramelized sugar, powdered blood and iron oxide.

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Corbett et al. teach that it has been well known in the art to use caramel colorants for coating pet food products (Column 4, lines 61-66). Francis is cited as further evidence that it has been well known that caramel colorants are derived by caramelizing sugar.

The claim further differs from Palmer and Corbett et al. in reciting wherein another colorant, iron oxide has been incorporated into the coating composition.

Hood is relied on to teach food products for animal and human consumption (Column 1, lines 6-9) wherein iron oxide has been employed in combination with other colorants to provide minor adjustments until the desired color is achieved (Column 4, lines 31-35 and lines 40-42).

It is noted that Palmer teaches using blood, which has been known to be used as a colorant, (See Example VII on column 7). The claim differs from the combined prior art in reciting wherein the blood colorant is powdered blood.

Ziegler is relied on to teach using dried blood as a colorant for meat products as opposed to liquid blood for the purpose of providing stability to the colorant which prevents putrefaction and does not require refrigeration for storage (Column 1, lines 62-67).

Thus, the prior art references to Corbett et al., Hood and Ziegler teach that caramelized sugar, iron oxide and powdered blood have been conventionally known colorants applied to meat products and further to meat products such as animal feeds. Palmer teaches combining colorants to achieve a desired color, as taught by using a color mixture (See Example III on column 5, which results in a color and appearance

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similar to that of roasted meat). Thus, Palmer teaches using coloring to achieve roasted appearance. Therefore depending on the desired color to be achieved for the coating, it would have been obvious to use mixtures of meat and pet food colorants, such as the caramelized sugar and iron oxide taught by Corbett et al. and Hood, since the art teaches that these colorants have been well known in the industry to color meat products and since Palmer teaches using a mixture of colors to result in a roasted meat product. Regarding the powdered blood, Ziegler, as well as Palmer teach the conventionality of using blood as a colorant. Using powdered blood, as taught by Ziegler et al. reduces the risk of putrefaction and spoiling of the colorant. Therefore it would have been obvious to use powdered blood as opposed to liquid blood to prevent spoiling of the blood. It is noted that applicant is not the first to use a mixture of colorants and further to use blood, iron oxide and caramelized sugar and the prior art teaches that each of these colorants has been well established to be used in mixtures for achieving a desired color and thus to use this combination would not have provided a patentable feature over the prior art.

Claim 22 further differs from the combined prior art in using a guar, a carboxymethyl cellulose and sodium alginate in the coating composition. It is noted that Palmer teach using gums such as gum Arabic and also teach using carboxymethylcellulose in the coating compositions (See Example VIII on column 8 and Example X on column 9).

Durst teaches using a combination of film formers for an external coating on a food product which can use a combination of film forming substances including

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carboxymethylcellulose, guar gum and sodium alginate (Column 2, lines 36-48). As a result of using a combination of edible film formers in the coating on the food product, prevention of rancidification is minimized and the desired qualities of the food product, such as chewiness and flexibility through storage are preserved (Column 2, lines 22-35). Durst further teaches using humectants and water in combination with the film forming substances for the purpose of encapsulating the food product (Column 2, lines 49-50).

Similar to Durst, Palmer teaches using a humectant (Column 3, line 43) and a film former such as gums and carboxymethylcellulose in combination with water in a coating for a food product, which coagulates and thus results in an even film over the food product (Column 4, lines 38-53). Humectants, antioxidants and stabilizers have been well established in the art as components used to protect the quality of the food. For instance, humectants drive moisture away from the food product and antioxidants and stabilizers prevent spoiling and loss of organoleptic properties of the food product. Therefore to one having ordinary skill in the art, to use a combination of edible film forming substances would have been obvious based on Durst's teaching of using a combination of edible film forming substances to protect a food product. To use a combination of edible film forming substances would have protected the food from rancidification and preserved the organoleptic properties over long term storage.

Further regarding instant claim 22 and the use of ascorbic acid, it is noted that Palmer teach adding vitamins and antioxidants to the coating (Column 3, lines 40-42). Palmer is silent in specifically using ascorbic acid.

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Igoe teaches that ascorbic acid provides nutrients and is essential for healthy bones and teeth. Igoe further teaches that ascorbic acid has also been well known to be used as an antioxidant to increase the shelf life of processed foods (Page 14).

Palmer teaches producing a processed food and further teaches using an antioxidant as well as a vitamin solution within the coating. Therefore to use ascorbic acid would have been obvious to the ordinarily skilled artisan, in light of the teachings of the Dictionary of Food Ingredients, in combination with the motivation to use ascorbic acid, as taught by Palmer, as an antioxidant and as a vitamin. Stoloff is cited as further evidence of the conventionality of coating a food product with ascorbic acid for the purpose of preservation (Column 2, Lines 9-16).

Claim 22 further differs from the combined prior art in reciting using plasma. Palmer '736 teaches that gluten, plasma soy protein and egg albumen are well known binders that are also heat coagulable (Column 4, lines 55-59). Furthermore, Example 2 teaches combining gluten and plasma to form the coagulable protein. Therefore the art recognized that both gluten and plasma are proteins which also act as binders, thus serving similar functions. Based on this recognition in the prior art, to combine the two protein binders used for the same purpose would not have provided a patentable feature over the prior art (See MPEP 2144.06 I).

Conclusion

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17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viren Thakur whose telephone number is (571)-272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Viren Thakur
Examiner
Art Unit: 1794



KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER